

### **REMARKS**

This responds to the Office Action dated November 1, 2006.

Claim 1 is amended, no claims are canceled or added; as a result, claims 1-30 are now pending in this application.

#### **Examiner Interview Summary**

Applicants' representative greatly appreciates the courtesies extended during the interview of January 25, 2007. In the interview, the cited reference, office action and independent claims were discussed. The Examiner indicated the claims as presently presented should distinguish over the cited reference, and would accordingly reexamine the application with receipt of the response.

#### **§102 Rejection of the Claims**

Claims 1, 2, 10, 11, 12, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 were rejected under 35 U.S.C. § 102(b) for anticipation by Hayzelden (US 2003/0050598).

#### ***Claims 1, 2 and 10***

Applicants respectfully traverse the rejections of claims 1, 2 and 10 for at least the following reason. Applicants cannot find in Hayzelden, for example, a flexible element extending from the housing through the actuator lumen to the deflectable distal end, the deflectable distal end is controllable by pushing and pulling of the flexible element, as recited in claim 1. Claims 2 and 10 depend from claim 1 and thereby include all of its recitations

Reconsideration and allowance of claims 1, 2 and 10 are respectfully requested.

#### ***Claims 11, 12 and 16***

Applicants respectfully traverse the rejections of claims 11, 12 and 16 for at least the following reason. Applicants cannot find in Hayzelden, for example, a catheter body extending from a bi-directional deflectable distal end to a proximal end and having an intermediate portion therebetween, the catheter body is bi-directionally deflectable and includes an actuator lumen, as recited in claim 11. Further, applicants cannot find in the cited reference, a second tubular

support slidably coupled with the first tubular support, as recited in claim 11. Claims 12 and 16 depend from claim 11 and thereby include all of its recitations.

Reconsideration and allowance of claims 11, 12 and 16 are respectfully requested.

#### *Claims 19-22*

Applicants respectfully traverse the rejections of claims 19-22 for at least the following reasons. Applicants can not find in Hayzelden, for example, means for constraining lateral movement of the flexible element within the actuator lumen, as recited in claim 19. Claims 20-22 depend from claim 19 and thereby include all of its recitations.

Additionally, Applicants respectfully submit claim 19 is a means plus function claim under 35 U.S.C. § 112, paragraph 6. MPEP § 2183 requires the Office Action to make a prima facie case of equivalence under 35 U.S.C. § 112, paragraph 6 including an explanation or a rationale as to why the disclosure of the cited reference is equivalent to the corresponding elements disclosed in the specification. The Office Action has not presented an explanation or a rationale as to why the disclosure of Hayzelden is equivalent to the corresponding elements disclosed in the specification as required by the MPEP § 2183. Applicants respectfully submit that the cited reference does not appear to disclose an equivalent to the corresponding elements disclosed generally in the specification, for instance, Figures 2, 3 and 8-18, and the associated written description.

Reconsideration and allowance of claims 19-22 are respectfully requested.

#### *Claims 23-25*

Applicants respectfully traverse the rejections of claims 23-25 for at least the following reason. Applicants cannot find in Hayzelden, for example, manipulating a deflectable catheter assembly into a first orientation, the catheter assembly including a catheter body and a housing coupled to a catheter body proximal end, an actuator lumen extending therein, a flexible element extending from an actuator member coupled with the housing through the actuator lumen to a deflectable distal end, a first tubular support coupled to the flexible element and coupled to the actuator member, and a second tubular support coupled to the flexible element, as recited in claim 23. Claims 24 and 25 depend from claim 23 and thereby include all of its recitations.

Reconsideration and allowance of claims 23-25 are respectfully requested.

#### *Claims 26-29*

Applicants respectfully traverse the rejections of claims 26-29 for at least the following reason. Applicant cannot find in Hayzelden, for example, manipulating a deflectable catheter assembly into a first orientation, the catheter assembly including a catheter body and a housing coupled to a catheter body proximal end, an actuator lumen extending therein, a flexible element extending from an actuator member coupled with the housing through the actuator lumen to a deflectable distal end, a first tubular support coupled to the flexible element and coupled to the actuator member, and a second tubular support slidably coupled to the flexible element and slidably coupled with the first tubular support, as recited in claim 26. Claims 27-29 depend from claim 26 and thereby include all of its recitations.

Reconsideration and allowance of claims 26-29 are respectfully requested.

#### *Allowable Subject Matter*

Claims 3-9, 13-15, 17, 18 and 30 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants graciously acknowledge the allowability of claims 3-9, 13-15, 17, 18 and 30 if rewritten in independent form as indicated above. Applicant believes the independent claims from which dependent claims 3-9, 13-15, 17, 18 and 30 depend are allowable for at least the reasons stated above. Applicant respectfully reserves the right to rewrite claims 3-9, 13-15, 17, 18 and 30 in independent form including all of the limitations of the base claim and any intervening claims.

#### *Reservation of Rights*

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any

reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-371-2117 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

GREG PUDELKO ET AL.

By their Representatives,

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Date January 31, 2007

By   
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 31st day of January 2007.

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